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Filed for Record in  
BOONE COUNTY, INDIANA  
MARY ALICE "SAM" BALDWIN  
10-30-2007 At 11:15 am.  
COVENANTS 131.00

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

OF

OLDFIELD

SUBDIVISION

CROSS-REFERENCE: FINAL PLAT OF OLDFIELD  
SUBDIVISION RECORDED AS INSTRUMENT NO.  
200700011064 AND SPECIAL WARRANTY DEEDS RECORDED  
AS INSTRUMENT NOS.: 200700008745, 200700008746,  
200700008747 AND 200700008748.

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**THIS DECLARATION**, made and entered into this 27<sup>th</sup> day of September, 2007 by **Oldfield Development Company, LLC, an Indiana Limited Liability Company ("Declarant" or "Developer")**,

**WITNESSETH**

**WHEREAS**, with the exception of Lot Number 12 in Oldfield Subdivision ("**Lot 12**"), Developer is the fee simple title holder of all the lands in Boone County, consisting of 91.777 Acres, more or less, as contained in and fully described on Exhibit "A", attached hereto and made a part hereof (hereinafter the "**Real Estate**").

**WHEREAS**, Lot 12, which is included in and a part of the legal description of the Real Estate attached hereto as Exhibit A, is owned by Robert J. Laviolette and Sondra Laviolette, Husband and Wife (together, the "Laviolette").

**WHEREAS**, Laviolette has executed concurrently herewith that certain Agreement to be Bound by Covenants, Conditions and Restrictions of Oldfield Subdivision (the "Joinder Agreement"), under which Laviolette, as Husband and Wife, and on behalf of all other heirs, executors, transferees, assigns and anyone claiming any interest in Lot 12 by or through Laviolette agrees to be bound by and to subject Lot 12 to the terms and condition contains in this Declaration (as defined herein).

**WHEREAS**, Laviolette has recorded, or is concurrently recording, with the Office of the Recorder of Boone County, Indiana, the Joinder Agreement so that this Declaration shall be binding upon future owners or holders of interest(s) in Lot 12 and shall run with the land as to

Lot 12 in the same manner and to the same extent as any other Lot or property in Oldfield Subdivision (as defined herein).

**WHEREAS**, Developer intends to divide the Real Estate into Thirty-five (35) tracts (each such tract together with any improvements contained thereon are hereinafter referred to individually as a "Lot" and collectively as "Lots"), more or less, such subdivision known as "Oldfield Subdivision".

**WHEREAS**, Developer desires to sell and convey Lots subject to the imposition of certain mutual and beneficial easements, restrictions, covenants, conditions and charges designed to assure ingress and egress thereto and to protect the value and desirability Oldfield Subdivision.

**WHEREAS**, Laviolette consents to and agrees to be bound by the mutual and beneficial easements, restrictions, covenants, conditions and charges.

**NOW, THEREFORE**, Declarant hereby declares that each Lot and all Lots shall be held, conveyed, encumbered, leased, rendered, used, occupied and improved subject to the following covenants, conditions and restrictions, which shall run with the Real Estate and be binding on each party having any right, title or interest in any Lot or Lots, and his, her or its heirs, beneficiaries, successors, assigns and personal and legal representatives, and which covenants, conditions and restrictions shall inure to the benefit of the Owners and each and every one of the Owner's successors in title to any Lot or Lots into which the Real Estate is subdivided.

**ARTICLE I**

**Definitions**

**Section 1.01. Committee:** "Committee" shall mean the Oldfield Subdivision Development Control Committee as defined in Article III.

**Section 1.02. Declaration:** "Declaration" shall mean this instrument, together with any amendments or changes hereto which are hereafter made and evidenced as herein required.

**Section 1.03. Developer:** "Developer" shall mean Oldfield, its successors or assigns in the ownership, development and division of the Real Estate, and/or any person, firm, corporation or other legal entity specifically designated as such as set out in Article III of this Declaration.

**Section 1.04. Laviolette:** "Laviolette" shall mean, Robert J. Laviolette and Sondra Laviolette, Husband and Wife, owners of Lot Number 12 in the Oldfield Subdivision.

**Section 1.05. Lot:** "Lot" (also referred to as "Tract"), referred to in the plural thereon as "Lots", shall mean any of the Thirty-five (35) tracts, more or less, together with any improvements contained thereon, into which the Real Estate is subdivided, the legal description being attached as Exhibit "A", which tracts are to be numbered in sequence as set out in the plat of Section One of the Oldfield Subdivision recorded in the office of the Recorder of Boone County, Indiana, in Book Number 18, Page 67-71, Instrument No 200700011064, and any subsequent sections recorded thereto, as any tract(s) may be enlarged or diminished by Developer, or a successor in interest, in connection with a reconfiguration thereof (in which event each tract shall be defined by the outside boundaries thereof). In no event shall any reconfiguration result in any tract having an area less than the area permitted by applicable zoning laws and in no event shall the Real Estate be divided to permit the construction of more than Thirty-five (35) single family residences and related improvements otherwise permitted hereunder. Further, no changes to the exterior boundaries of the plat can be made unless a replat is approved by the Boone County Area Plan Commission or any successor Plan Commissions.

**Section 1.06. Owner:** "Owner", referred to in plural as "Owners", shall mean and refer to the record owner, whether one or more persons or entities, their respective heirs, beneficiaries, successors, assigns and personal and legal representatives, of the legal title to any Lot, including contract sellers, but excluding those having such interests merely as security for the performance of an obligation. Developer shall also be considered an owner for purposes of this Declaration for so long as, and to the extent that, Developer owns a Lot or Lots.

**Section 1.07. Driveway:** "Driveway", referred to in the plural as "Driveways", shall mean that portion of any Lot developed and hard surfaced for the purpose of permitting ingress and egress to and from such Lot from and to any public road or easement.

**Section 1.08. Lot Development Plans:** "Lot Development Plans" shall mean and consist of the following plans: (i) a site plan, prepared by a licensed civil engineer or registered land surveyor approved by the Committee, showing existing improvements on a Lot, any proposed alteration of the topography, elevation or natural state of the Lot in connection with the improvement thereof or any construction thereon, and locating thereon all proposed improvements and structures showing finished floor elevations and details relating to drainage; (ii) complete house building and/or accessory structure plans, including structural details, exterior elevations and floor plans; (iii) material plans and specifications; (iv) landscaping plans (with a minimum of five (5) trees of four (4) inches or greater in diameter); (v) all other data or information which Developer and/or the Committee may reasonably request, including, but not limited to, a Oldfield Construction Plan Submittal Form as defined herein.

**Section 1.09. Subdivision:** "Oldfield Subdivision" shall mean the Real Estate as divided into Lots, all as evidenced by a plat or plats by sections as recorded herewith in the

Office of the Recorder of Boone County, Indiana, Book Number 18, Page 67-71  
Instrument No 200700011064, identified as the plat of Oldfield Subdivision (the "Plat").

**Section 1.10. Property Owners Association:** The "Property Owners Association" shall have the meaning set forth in Article IV.

**Section 1.11. Board:** "Board" shall mean and refer to the governing body of the Property Owners Association elected, selected or appointed as provided for in the Articles of Incorporation and By-Laws of the Property Owners Association.

## **ARTICLE II**

### **Character of Lots**

**Section 2.01. In General:** Every Lot or group of Lots referred to in this Declaration shall be used exclusively for single family residential and accessory use purposes.

**Section 2.02. Improvement and Development of Lots:** No Lot shall be further divided to create any additional tract upon which a single family residence and improvements otherwise permitted hereunder may be constructed, nor shall any improvements be made thereto or construction commence, proceed or continue thereon, except in strict accordance with the terms and provisions of this Declaration. Not more than one (1) single family dwelling house and such related accessory structures, and recreational facilities as may be permitted by this Declaration shall be constructed, altered, placed or permitted to remain on any Lot referred to by this Declaration.

**Section 2.03. Occupancy or Residential Use of Partially Completed Dwelling House**  
**Prohibited:** No dwelling house constructed on a Lot shall be occupied or used for residential purposes for human habitation until it has been substantially completed. The determination of whether a dwelling house has been "substantially completed" shall be made by the Committee

and the Boone County or the Town of Zionsville Building Inspector, and such decision shall be binding on all parties affected thereby.

### ARTICLE III

#### Development Control Committee

**Section 3.01. Development Control Committee:** There shall be, and hereby is, created and established the "Oldfield Subdivision Development Control Committee" (the "Committee") to perform the functions provided to be performed by it hereunder. Until the earlier of (i) the date upon which Developer owns three (3) or less Lots within Oldfield Subdivision or (ii) the date Developer assigns its rights herein as provided in Section 3.05 (the "Applicable Date"), Geoffrey Lord, Sondra Laviolette and Leonard Watson shall constitute the Committee. After the Applicable Date, the Committee shall be elected in accordance with the By-Laws of the Property Owners Association and shall consist of three (3) or more Owners as may, from time to time, be provided in the By-Laws. If the By-Laws of the Property Owners Association do not, at any time, provide for the Committee, then the Board of the Property Owners Association shall be and constitute the Committee.

The powers and authorities contained in this Article shall be vested in the Committee and the covenants, conditions and restrictions in Article V of this Declaration shall be administered and enforced by the Committee, or its designated successors and/or assigns. The Committee's administration and enforcement of such covenants, conditions and restrictions shall include, but not be limited to, approval of Lot Development Plans prior to the improvement of any Lot. Neither the exercise of such administration and enforcement duties by the Committee, nor the approval of any Lot Development Plans by the Committee, shall relieve any Owner of any duty and obligation imposed by this Declaration or compliance with the covenants, conditions or restrictions as the same are recorded in the Office of the Boone County Recorder. In the event

that a written approval is not received from the Committee within thirty (30) days from the date the Lot Development Plans are submitted, the Lot Development Plans shall be deemed denied. In the event of a disapproval, the Committee shall give a short statement of the reason or reasons for such disapproval within ten (10) days following receipt of a written request to do so. The Committee reserves the right to unilaterally deny approval of Lot Development Plans if the single family dwelling is inconsistent as to design or size with adjacent Lots and as otherwise provided herein.

**Section 3.02. Powers of the Committee:** No Lot shall be developed and no single family dwelling house, accessory building, driveway or other structure or improvement of any type, kind or character shall be constructed, placed, altered or permitted to remain on any Lot in Oldfield Subdivision without the prior written approval of the Committee. Any required approval shall be requested by an Owner by written application to the Committee. Such written application shall be made in the manner and form prescribed from time to time by the Committee, and shall be accompanied by three (3) complete sets of Lot Development Plans and such other information as may be reasonably required by the Committee. The authority given to the Committee hereby is for the purpose of determining whether the proposed improvement and development of a Lot is consistent with the terms and provisions of this Declaration, is consistent with and meets Developer's and the Committee's overall plans for improvement and development of the Real Estate and is compatible and consistent with the development of other Lots. In furtherance of the foregoing purposes, the Committee is hereby given discretion as to matters related to location, building orientation, layout, design, architecture, color schemes and appearance in approving Lot Development Plans. Furthermore, the Committee is hereby given discretion to approve or deny Lot Development Plans on a Lot by Lot basis considering all necessary factors in the Committee's sole discretion including, but not limited to, the Lot's

proximity to Hunt Club Road, the Lot's proximity to the common areas as depicted on the Plat ("Common Areas") and the Lot's proximity to walking paths within Oldfield Subdivision. Any house, building or other accessory structure plans included as a part of any application to the Committee for required approvals shall set forth the color and composition of all exterior materials proposed to be used and any site plan submitted shall describe and detail all proposed landscaping and include any other material or information which the Committee may reasonably require. All plans shall include an "Oldfield Construction Plan Submittal Form" as provided by the Committee and as may be amended from time to time at sole discretion of the Developer and/or the Committee. Further, each submittal shall confirm to the "Development Control Committee Guidelines for Architectural Approval for Oldfield Subdivision", provided by the Committee, and as may be amended from time to time at sole discretion of the Developer and/or Committee. The initial forms of the Oldfield Construction Plan Submittal Form and Development Control Committee Guidelines for Architectural Approval for Oldfield Subdivision are attached hereto as Exhibit B. All plans and drawings representing a part of the Lot Development Plans and any other plans reasonably required to be submitted to the Committee shall be drawn to a scale of 1" = 10', or to such other scale as the Committee may require. All plans submitted shall be prepared by either a registered land surveyor, engineer or architect unless the Committee specifically permits otherwise.

**Section 3.03. Liability of Declarant, Developer and the Committee:** Neither the Committee (individually, jointly or in their representative capacity), Declarant, Developer, nor any of their agents, successors or assigns, shall be responsible in any way for any defects or insufficiencies in any plans, specifications or other materials submitted for review, whether or not approved by the Committee, nor for any defects in any work done in accordance therewith. The Committee (individually, jointly or in their representative capacity), Declarant, Developer,

their agents, successors or assigns shall not be liable to any person, firm, corporation or other legal entity aggrieved by the Committee's exercise of (or failure to exercise) any of his powers as specified in Article III hereof, and shall have no liability whatsoever which is claimed or alleged to result, in whole or in part, upon refusal by the Committee to approve Lot Development Plans submitted to the Committee.

**Section 3.04. Inspection:** Developer and the Committee shall have the right to go upon any Lot without being a trespasser to inspect any work being performed thereon to assure compliance with this Declaration and conformity with the Lot Development Plans and with any other plans or submittals made to it and upon which any approvals required by this Declaration were based.

**Section 3.05. Assignment of Duties:** All of the duties, responsibilities and rights held by Developer under this Declaration shall be exercised and administered by Developer in good faith until such time, if any, as they may be assigned by the Developer to another Owner of one or more Lots referenced by these covenants or any other legal entity formed as a successor thereto (the "Assignment"). Any such Assignment shall be at the option and sole discretion of Developer and may be made at any time or stage of development; provided, however, that upon Developer no longer owning any Lots within Oldfield Subdivision the Developer's duties, responsibilities and rights herein shall automatically be assigned to the Property Owners Association. Except as provided in the preceding sentence, any Assignment by Developer shall be by written instrument duly executed and recorded in the Boone County Recorder's Office. Following any such Assignment and recordation, the duties, responsibilities and rights of Developer under this Declaration shall immediately vest in and be performed by assignor or successor.

#### **ARTICLE IV**

**Association of Property Owners  
and Assessments**

**Section 4.01. Association of Property Owners:** In order to provide for the continuing maintenance and administration of Oldfield Subdivision, there shall be established an incorporated association of Owners of Lots in Oldfield Subdivision **known as Oldfield Subdivision Property Owners' Association, Inc. ("Property Owners Association")**. The Property Owners Association shall be comprised of and limited in members to the Owners from time to time of the several Lots within the Subdivision. Membership in the Property Owners Association shall commence immediately upon becoming an Owner and continue for so long as ownership of a Lot or Lots continues. At such time as an Owner conveys title and ceases to be an Owner, membership in the Association shall terminate. A new owner of a Lot shall automatically become a member. Although an Owner need not participate in the administration of Oldfield Subdivision, all Owners and the ownership of any Lot or Lots shall be subject to any and all rules and regulations duly established by the Property Owners Association (as well as being subject to the rights of Developer and the terms and provisions of this Declaration) and shall be liable for the payment of all assessments levied by the Property Owners Association. The Property Owners Association may assign or otherwise transfer its rights, responsibilities and duties under this Declaration to any legal entity which may be formed as a successor thereof. Any such assignment or transfer shall be in writing and shall be effective when written evidence thereof is duly recorded with reference to this Declaration in the office of the Recorder of Boone County, Indiana.

**Section 4.02. Rights and Duties Of Property Owners Association:** The Property Owners Association shall be responsible for the following:

- a) The landscaping, maintenance and upkeep of the fencing installed by the Developer within the areas shown on the plat and contained within all the Common Areas. The maintenance of lake banks and fountains and to take any and all steps to provide and maintain water quality in the Wet Retention Ponds, inclusive as shown on the plat. The Property Owners Association shall also be responsible for maintenance and upkeep of the signage for Oldfield Subdivision within the landscape and utility easement at the entrances of Oldfield Subdivision. The Property Owners Association shall also be responsible for maintenance and upkeep of any wet or dry retention areas and Common Area blocks, inclusive, as may be shown on the plat.
- b) Procuring of utilities used in connection with the Lots, single family residences and common areas to the extent the same are not provided and billed directly to the Owners of Lots by utility companies. Further, it shall be the responsibility of the Property Owners Association to provide for common snow removal throughout Oldfield Subdivision and bill the members accordingly.
- c) Payment of insurance (if any may be required under other sections to this Declaration).
- d) Determination of general and special assessments levied against the Owners.
- e) Promulgation and enforcement of the rules and regulations in this Declaration or as otherwise duly promulgated by the Owners.
- f) Arrange for the common pick up and removal of garbage and waste so as to assure that one waste hauler will be utilized to serve Oldfield Subdivision.

- g) Exercise of the powers vested in the Property Owners Association by this Declaration, the Articles of Incorporation and Bylaws. A copy of the initial Bylaws of the Property Owners Association is attached hereto as Exhibit "C" and incorporated herein.

**Section 4.03. Meetings of the Property Owners Association and Voting Rights:**

Business of the Property Owners Association shall be conducted at regular annual meetings of the Property Owners Association and special meetings, as necessary, pursuant to the By-Laws. Meetings of the Property Owners Association may be called by the then current Chairman or Secretary-Treasurer of the Property Owners Association or upon request of the Owner(s) of at least five (5) Lots. Unless otherwise provided in the By-Laws, written notice of the annual meeting of the Lot Owners shall be personally delivered or mailed by first class United States mail by the Secretary-Treasurer to all Owners at least twenty (20) days prior to any proposed annual meeting. Any special meeting called shall be governed by the By-Laws. The Property Owners Association shall have the following classes of membership with the following voting rights:

- a) **Class A.** Class A members shall be all Owners of Lots in Oldfield Subdivision. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be members of the Property Owners Association, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

- b) **Class B.** Class B members shall be Developer and all successors and assigns of Developer designated by Developer as Class B members in a written notice mailed or delivered to the resident agent of the Association. Each Class B member shall be entitled to ten (10) votes for each Lot of which it is the Owner on all matters requiring a vote of the members of the Property Owners Association. The Class B membership shall cease and terminate on the date upon which the written resignation of the Class B members as such is delivered to the Property Owners Association or successor thereto or the date Developer no longer owns any Lots in Oldfield Subdivision, whichever occurs first. After the above, Class B memberships shall be converted to Class A memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot owned in Oldfield Subdivision.

**Section 4.04. Annual Accounting.** Annually, after the close of each fiscal year of the Property Owners Association and prior to the date of the annual meeting of the Property Owners Association following the end of such fiscal year, the Board shall cause to be furnished to each Owner a financial statement prepared by the Board, the management company if one is employed, or a certified public accountant or firm of certified public accountants then serving the Property Owners Association, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

**Section 4.05. Proposed Annual Budget.** Annually, on or before the date of the annual or special meeting of the Property Owners Association at which the budget is to be acted upon, the Board shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total amount of the Common Area expenses for such next ensuing fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such

meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the designated meeting of the Property Owners Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (as defined herein) for the next ensuing fiscal year. At such annual or special meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners; provided, however, that in no event shall such meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Property Owners Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Areas. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Areas shall be maintained by the Property Owners Association in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Boone County, Indiana selected from time to time by the Board. The failure or delay of the Board to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the any expenses or assessments as herein provided, whenever determined. Whenever, whether before or after the meeting of the Property Owners Association at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and twenty percent (120%) of such last approved

budget, as a temporary budget. Any vote on an increase of the prior year's budget in excess of one hundred twenty percent (120%) of the total costs shall require approval of the Owners of fifty-one percent (51%) of the Lots.

**Section 4.06. Regular Assessments.** The annual budget as adopted by the Owners shall, be based on the estimated cash requirement for the Common Area expenses in the fiscal year covered thereby as set forth in said budget and contain a proposed assessment against each Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of the assessment against his respective Lot (the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following the adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including the reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in full in advance by a date specified by the Board which date shall not be earlier than fifteen (15) days after the written notice of such Regular Assessment is given to the Owners. However, at the option of the Board, the Regular Assessment against each Lot may be paid in advance in equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the Regular Assessment, whether in one payment or in quarterly installments, shall be made to the Board. In the event the Regular Assessment for a particular fiscal year of the Property Owners Association was initially based upon a temporary budget,

- (a) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary

budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year, whether annual or quarterly, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

- (b) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether annual or quarterly, until the entire amount of such excess has been so credited;

provided, however, that if an Owner had paid his Regular Assessment in full in advance, then the adjustments set forth under (a) or (b) above shall be made by a payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners. The Regular Assessment for each fiscal year of the Property Owners Association shall become a lien on each separate Lot as of the first day of each fiscal year of the Property Owners Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Property Owners Association prior to the final determination and adoption of the annual budget and Regular Assessment for the year with respect to which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Annual or quarterly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board, and neither the

Board nor the Property Owners Association shall be responsible for providing any notice or statements to Owners for the same.

The initial Regular Assessments shall be fixed at the rate of \$1,500.00 annually. Each Owner shall pay at time of closing on the Lot, a one-time \$1,500.00 capital reserve fee. This capital reserve fee is in addition to the annual Regular and Special Assessments.

**Section 4.07. Special Assessments.** From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the By-Laws or Indiana Code, the Board shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares (the "Special Assessment"). Any Special Assessment in excess of Ten Thousand Dollars (\$10,000.00) per Lot shall require the approval of the Owners of fifty-one percent (51%) of the Lots. Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration, but Special Assessments may not be made prior to the Applicable Date to pay for Common Expenses or other items to be paid by Regular Assessments.

**Section 4.08. Failure of Owner to Pay Assessments; Lien.**

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and items deemed Common Areas for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments against his or her Lot. Where the Owner constitutes or consists of more than one Person, the liability of such Persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments against his Lot when due, the lien for such Assessment on the Owner's Lot

may be filed by the Board for and on behalf of the Property Owners Association in the manner provided by law for a common law lien and foreclosed by the Board for and on behalf of the Property Owners Association in the same manner as a mortgage on real property or as otherwise provided or permitted by law. Upon the failure of an Owner to make timely payments of any such Regular Assessments or Special Assessments, when due, the Board may, in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot which is the subject of such action shall be jointly and severally liable for the payment to the Property Owners Association of reasonable rental for such Lot, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and to collect the rentals and other profits therefrom for the benefit of the Property Owners Association to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby being deemed to have waived) the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, or any other debts, dues or charges owed the Property Owners Association, whether by foreclosure or otherwise, the Board, for and on behalf of the Property Owners Association, shall be entitled to recover from the Owner of the respective Lot all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to the "prime interest rate" then in effect as publicly quoted or published by a national bank or other source selected by the Board.

(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any Person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment or other charges as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that

the extinguishment of such lien shall not relieve the prior owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments or other charges thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments or other charges, the lien for which has been divested as aforesaid, shall, if not collected from the party personally liable therefor, be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot from which it arose).

**Section 4.08. Initial Budgets and Assessments.** Notwithstanding anything to the contrary contained herein, in the Articles, in the By-Laws, in Indiana Nonprofit Corporation Act or otherwise, until the Assignment or the Applicable Date (whichever is earlier) the annual budget and all Regular Assessments and Special Assessments shall be established by the Developer without meeting of or concurrence of the Owners. Each Owner, by acceptance of a deed to a Lot or by acquisition of any interest in the improvements thereon, shall be deemed to have appointed Developer as such Owner's agent, attorney-in-fact and proxy for the purpose of voting on and approving the annual budget and any Regular Assessments and Special Assessments until the Assignment or Applicable Date, as the case may be.

Further, until the Assignment or Applicable Date, as the case may be, and

notwithstanding the anything else contained herein, no Regular Assessments, Special Assessments or other charges shall be owed or payable by Developer with respect to any Lot or other portion of the Real Estate owned by Developer while the same is owned by Developer, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Developer, unless the Common Expenses exceed the Regular Assessments of Lot Owners prior to the Assignment or Applicable Date, as the case may be, whereby Developer shall pay any deficiency. Assessments against a Lot shall commence to accrue from the date each Lot is conveyed by Developer to an Owner other than Developer, and a prorated portion of the Regular

Assessment for the balance of the fiscal year of the Property Owners Association against each Lot so conveyed by Developer shall be paid by each purchaser upon such conveyance.

**Section 4.09. Subordination of the Lien to Mortgages:** The lien of the Assessments provided for herein against a Lot shall be subordinate to the lien of a recorded bona fide first mortgage covering such Lot and subordinate to any tax or Special Assessment lien of such Lot in favor of any governmental taxing or assessing authority. The sale or transfer of a Lot shall not affect the Assessment lien. The sale or transfer of a Lot pursuant to bona fide mortgage foreclosure proceedings or any other bona fide proceeding in lieu thereof shall, however, extinguish the lien of such Assessment as to any payment, which became due prior to such sale or transfer. No such sale or transfer shall release a Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

**Section 4.10. Duties of Chairman and Secretary-Treasurer of the Property Owners Association:** The Chairman and Secretary-Treasurer of the Property Owners Association, or their designee, shall have the duties set forth in this Declaration, shall attend to and handle the day to day affairs of the Property Owners Association and shall attend to handle such other duties delegated to them by the Owners. All acts taken and things done shall be measured by a standard of reasonableness and neither the Chairman nor the Secretary-Treasurer shall have any liability to an Owner, Owners or the Property Owners Association unless acting in bad faith in a manner inconsistent with the terms and provisions of this Declaration. Notwithstanding the foregoing, in no event (except in the case of a bona fide emergency involving a total expenditure not exceeding one Thousand Dollars (\$1,000) or such other amount from time to time established by the Owners), shall either the chairman or Secretary-Treasurer have any right, privilege or authority to contract for, solicit, hire or otherwise obtain services or materials which are not included within

and covered by the budget then applicable or which are otherwise funded by a Special Assessment levied in accordance with Section 4.07 hereof.

**Section 4.11. Receipt For Payment:** The Property Owners Association shall, within twenty (20) days after demand made at any time, furnish a receipt in writing signed by the Secretary-Treasurer of the Property Owners Association, specifying that the Assessment respecting a Lot has been paid or that certain Assessments remain unpaid, as the case may be. Such receipts shall be conclusive evidence of payment of any assessment therein stated to have been paid.

## **ARTICLE V**

### **Lot Development**

**Section 5.01. Lot Development:** Prior to the development, improvement or alteration of, or the construction on or addition to, a Lot or Lots, the Owner(s) thereof shall first obtain written approval from the Committee of the Lot Development Plans as required by Article III of this Declaration. Any improvement, development or alteration of a Lot or Lots, and any construction thereon or addition thereto, shall strictly comply with this Article. In the event of a conflict between a set of duly approved Lot Development Plans and the terms and provisions of this Article, the terms and provisions of Article shall control.

**Section 5.02. Type, size and Nature of Construction Permitted:** No single family dwelling house, garage, driveway, accessory building, fence, swimming pool, tennis court or other recreational facility permitted by this Declaration shall be erected, placed or altered on any Lot without the prior written approval of the Committee, as required by this Declaration and review and approval of the Boone County Area Plan Commission or the Zionsville Plan Commission, respectively. Such approval shall be obtained prior to the commencement of construction and shall be subject to the following minimum standards:

- (a) No structure or building shall be erected, altered, placed or permitted to remain on any Lot other than one single family dwelling not exceeding two and one-half (2 1/2) stories in height, one private attached garage for a minimum of two vehicles, maximum of four, and such other accessory buildings or structures related to swimming pools, tennis courts, and other recreational facilities, including greenhouses, which are usual and incidental to the use of the Lot for single family residential purposes. Each attached garage shall be designed as a part of the single family dwelling house to which it is attached. Unattached garages and carriage houses may be erected only upon express written approval of the Committee or its assignee or designee. Further, garage doors shall remain closed except when entering, exiting or otherwise having the need to access the garage. The garage door openings for each single family dwelling shall be prohibited from facing directly and/or running parallel to the dedicated public road or the private roadway serving the Subdivision. It is the intent of this paragraph that the garage door opening shall be designed and constructed in such a manner to minimize, to the extent possible, any direct viewing from the dedicated public streets or private roadways. No garage door shall directly face the street without written approval from the Committee.
- (b) The minimum finished floor area of a one story dwelling house constructed on a Lot, exclusive of open or screened porches, attached garages and basement or below grade levels, shall be 4,000 square feet in the case of a one story residence, and in the case of a dwelling house having more than one story, a minimum of 3,000 square feet of the required minimum finished floor area shall be located on the first floor.

- (c) No single family dwelling house, garage or accessory structure of any kind shall be moved onto any Lot and all materials incorporated into the construction thereof shall be new, except that used brick, weathered barn siding or the like, or interior design features utilizing other than new materials, may be approved by the Committee. No tent, basement, storage sheds, garage, barn or other structure shall be placed or constructed on any Lot at any time for use as either a temporary or permanent residence or for any other purpose, except as reasonably required as an accessory structure in connection with the construction of a single family dwelling on a Lot.
- (d) The single family dwelling house along with any accessory buildings (other than greenhouses or indoor pools with track roofs) constructed on a Lot shall have a slate, tile, wood shake or architectural grade dimensional fiberglass or asphalt shingle roof and accessory buildings shall be made out of the same materials, or combination thereof, out of which the single family dwelling house on the same Lot is constructed.
- (e) A single family dwelling, garage or accessory building shall be constructed of primarily masonry or stone unless otherwise approved by the Committee.
- (f) The concrete or block foundation of any single family dwelling house or accessory structure constructed on a Lot shall be covered on the exterior with wood, brick or stone veneer so that no portion of the exterior thereof is left exposed above ground.
- (g) Each attached garage shall be designed as a part of the single family dwelling house to which it is connected.
- (h) The roof of each single family dwelling house constructed on a Lot

(excluding that portion of the roof covering the attached garage or open or enclosed porch) shall have a pitch of 7 to 12 or greater unless otherwise approved by the Committee as a part of the Committee's approval of Lot Development Plans. The roof shall be comprised of slate, tile, wood shake or architectural grade dimensional fiberglass or asphalt shingles.

- (i) No house or other structure shall contain aluminum or vinyl siding. Further, no plywood or other sheets of wood with dimensions greater than four (4) by eight (8) foot may be used for exterior siding.
- (j) No open loop geothermal heat pumps shall be allowed.

**Section 5.03. Tree Preservation:** Existing mature trees (having a trunk in excess of six (6) inches in diameter measured at a point three (3) feet from undisturbed ground) shall be preserved to the extent the removal thereof is not mandatory in connection with the construction of an approved single family dwelling house or accessory building unless the removal thereof is otherwise specifically approved by the Committee or any such tree is dead or decayed and dangerous.

**Section 5.04. Completion of Construction:** All construction upon a Lot shall be completed in strict accordance with the Lot Development Plans approved by the Committee and in conformance with the improvement location permit issued by the Boone County Area Plan Commission or the Town of Zionsville, respectively. Subject to Force Majeure (as hereinafter defined), the exterior of any dwelling house built upon a Lot or combination of Lots shall be completed within twenty-four (24) months after the date of commencement of the foundation and the site graded and any areas to be covered with grass shall be seeded or sodded. All construction shall be completed and a certificate of occupancy from the Boone County Area Plan Commission or the Town of Zionsville, respectively shall be issued within thirty (30) months

from the date of commencement of the foundation. Notwithstanding the foregoing, an Owner may petition the Committee for an extension of the aforementioned twenty-four (24) and thirty (30) month time limits which the Committee may grant or deny in its reasonable discretion. Each Lot shall be kept and maintained in a sightly and orderly manner during the period of construction. All builders will be required to utilize and pay for a thirty (30) cubic yard trash receptacle for each home during the period of construction in order to properly dispose of debris. Every builder or Owner shall be required to furnish restroom facilities for their workers during construction. However, multiple builders or Owners may combine to provide restroom facilities to their workers during construction. "Force Majeure" shall include delays by reason of adverse weather conditions, strikes, lock-outs, labor disputes, shortage of materials, failure of power, restrictive governmental laws and regulations, acts of God, riots, terrorist activities, insurrection, war or other reason beyond the reasonable control of the Owner ("Force Majeure")

**Section 5.05. Storage Tanks:** No storage tanks, of any nature, for any use, shall be allowed on the surface or be buried on any lot.

**Section 5.06. Mailboxes:** All mailboxes installed throughout Oldfield Subdivision will be uniform and will be constructed and installed by the Owner in a design and material provided and approved by the Committee. Mailboxes and lights thereon shall be maintained by Owner and in good working order at all times.

**Section 5.07. Driveways:** No lot shall be permitted to contain more than one driveway and each lot shall be allowed only one cut onto a public road adjoining the property. The driveway on each Lot shall be cut and stone or gravel placed thereon prior to development or improvement of the Lot to the extent necessary to avoid the transmittal of mud from construction traffic to the public roads. Upon substantial completion of construction, each driveway shall be

constructed of either hard mixed aggregate, concrete or concrete pavers, asphalt, brick or other material acceptable to the Committee.

A driveway constructed on any Lot to and from a public road shall be constructed and maintained so as to provide the sole means of ingress and egress to and from such Lots for vehicular traffic. However, circular drives which provide more than one cut onto a public road may be allowed upon approval of the Committee. Under no conditions shall driveways be constructed over curb inlets of the storm sewer system within the right-of-way of the public road. No asphalt or concrete driveway shall be placed behind a curb containing these inlet grates.

**Each lot owner shall be required to obtain a Driveway Permit from the Boone County Highway Department or the Town of Zionsville as the case may be, prior to or at the time of an Application for a Building or Improvement Location Permit.**

**Section 5.08. Fences, Walls, Hedges or Shrub Plantings:** No fence, wall, hedge or other screening shall be erected, placed, altered or permitted to remain on any Lot other than as approved by the Committee. Only wrought iron fences, natural stack stone walls or masonry walls may be considered for approval. No chain link fences shall be erected upon a Lot; provided, however, that a chain link fence for the sole purpose of surrounding a tennis court may be considered for approval. **No fence, structures or plantings may be placed within platted drainage and utility easements or within the right-of-way of a public road.** No fence shall be erected or maintained on or within any Landscaping Easement except upon express written permission by the Committee. The Committee may establish further restrictions with respect to fences, including limitations on (or prohibition of) the installation of fences in the rear yards of certain Lots.

**Section 5.09. Ditches and Swales:** The Owner of any Lot on which any part of a private drainage tile, open storm drainage ditch or swale is situated shall keep such portion thereof as

may be situated upon his Lot or Lots continuously unobstructed and in good repair, and shall provide for the installation of such culverts upon said Lots as may be reasonably necessary to accomplish the purposes of this subsection, all at each such Owner's own cost and expense.

**Section 5.10. Ponding and Runoff:** No owner shall cause or permit any pond to be created on any Lot, including without implied limitation, from any swale, ditch, stream or creek located on the Real Estate. Further, owner shall prevent water run-off and the depositing of soil and mud from the lot onto the street or through drainage swales through the use of silt fences installed during the home building process.

**Section 5.11. Direct Digital Television:** Receiver dishes of eighteen (18) inches or less in diameter which attach to the house shall be permitted without prior written consent of the Committee. No other antenna dish, tower or other free standing antenna structure or device shall be erected, placed or permitted to remain on any Lot without prior written consent of the Committee. The Committee reserves the right to withhold permission for any reason.

**Section 5.12. Subsurface Drains:** Specific Lots within the subdivision have been provided access to plastic drains which are connected to the Oldfield Subdivision storm sewer system. These drainage tiles are designed to provide an outlet for the flow from perimeter drains around septic systems and drainage water from sump pump discharges. In no situation shall the discharge from sump pumps or downspouts be outletted directly into the street right-of-way or onto the street surface. Gravity drainage from downspouts may be drained directly by piping into the storm system but shall not be piped directly into surface swales at the side or rear of Lots. The water from downspouts shall be dispersed onto the lawn area around the home and allowed to flow naturally to drainage ways. All floor drains shall drain into the sewage disposal system of the home. In no situation shall sump pumps be outletted into the septic system of the home or in any ravine, swale or open ditch on or adjacent to Oldfield Subdivision.

**Section 5.13. Compacted Fill Material on Lots:** Lots may contain compacted fill material. This soil, although it has been properly compacted, may not contain similar engineering properties of undisturbed soil for the purpose of foundation construction. The Developer makes no representation, express or implied, as to the suitability of soil conditions for the purpose of foundation construction. The Owner of each Lot is solely responsible for determining the suitability of soil conditions prior to the purchase of a Lot and/or the commencement of construction.

**Section 5.14. Open Space:** "Open Space" is an area designated and described on the Plat along a portion of the common boundary of Oldfield Subdivision. No non-recreational permanent improvements or structures of any type are allowed within the designated Open Space area without the express written permission of the Committee and without approval of the Boone County Area Plan Commission or the Zionsville Plan Commission, as the case may be. This area is intended to provide light and air and is designated for either environmental, scenic or recreational purpose.

**Section 5.15. Treehouses and Playground Equipment:** No treehouses will be allowed on any Lot in Oldfield Subdivision. Further, any and all playground equipment shall be made of wood as its primary building material. In no event shall any playground equipment be allowed that uses metal or plastic as its primary building material. The location and installation of any playground equipment shall be done only with the express written approval of the Committee.

## **ARTICLE VI**

### **Use and Maintenance of Lots**

**Section 6.01. Vehicle Parking:** No camper, motor home, truck, trailer or boat may be parked or stored overnight or longer on any Lot in open public view, except pick-up trucks or other similar vehicles customarily used by the Owners of suburban real estate parcels similar in

size to the Lots contained herein. Further, no vehicles as set out above, including automobiles, light trucks or pick-ups, shall be parked or stored on the roadways or Common Areas throughout Oldfield Subdivision.

**Section 6.02. Home Occupations:** No home occupation shall be conducted or maintained on any Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of such Lot and which is generally or regularly conducted at another location which is away from such Lot. No signs of any nature, kind or description shall be erected, placed or permitted to remain on any Lot advertising a permitted home occupation.

**Section 6.03. Signs:** No sign of any kind shall be displayed to public view on any Lot except that one two-sided sign (not exceeding five (5) square feet per side) may be displayed at any time for the purpose of advertising the property for sale or for rent, or may be displayed by a builder to advertise during construction.

**Section 6.04. Maintenance of Tracts and Improvements:** The Owner of any Lot shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, each such Owner shall:

- (i) Mow such portion of the Lot or Lots upon which grass has been planted at such times as may be reasonably required;
- (ii) Remove all debris or rubbish;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance;
- (iv) Keep the exterior of all improvements in such a state of repair and maintenance as to avoid their becoming unsightly; and
- (v) Within sixty (60) days following completion of a dwelling house on a Lot, the Owner shall landscape the Lot, weather permitting.

**Section 6.05. Animals:** Only dogs, cats and similar animals generally and customarily recognized as household pets, not exceeding the aggregate three (3) in number (excluding fish), may be kept or maintained on any Lot as household pets. All animals kept or maintained on any Lot in Oldfield Subdivision shall be kept reasonably confined by means of leash, invisible fence or other product similar thereto so as not to become an annoyance or nuisance. No animal shall be kept or maintained on a Lot for commercial purposes or primarily for breeding purposes.

**Section 6.06. Garbage, Trash and Other Refuse:** The outside burning of garbage or other refuse shall not be permitted on any Lot, nor shall any outside accumulation of refuse or trash be permitted on any Lot. Each single family dwelling house built shall be equipped with a garbage disposal unit of a type, kind and capacity approved by the Committee, and once installed, each such unit shall be kept and maintained in good working order so as to be and remain environmentally acceptable.

**Section 6.07. Nuisances:** No noxious or offensive activity shall be conducted upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood or another Owner. **No dirt bikes, snow mobiles, off-road quad or four runners shall be driven or operated on any Lot within Oldfield Subdivision.**

**Section 6.08. Maintenance of Undeveloped and Unoccupied Lots:** Owners of undeveloped or unoccupied Lots shall at all times: (i) keep and maintain such Lots in an orderly manner, causing weeds and other growths to be reasonably cut; (ii) prevent the accumulation of rubbish and debris on the Lots; and (iii) prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Lot.

**Section 6.09. Easement for Utilities and Public and Quasi-Public Vehicles.** All public and quasi-public vehicles, including but not limited to, police, fire, ambulance and other

emergency vehicles, trash and garbage collection, post office vehicles, postal employees, utility company vehicles and personnel, privately owned delivery vehicles making deliveries to a Lot, as well as pedestrian traffic are hereby granted the right to enter upon and use the roadway throughout Oldfield Subdivision in the performance of their duties, for deliveries, for ingress and egress, and for installation, replacement, repair and maintenance of all public utilities, including, but not limited to, water, sewer, gas, telephone and electric.

**Section 6.10. Yard Lighting:** The type, style and location of yard light shall be subject to the approval of the Committee.

**Section 6.11. Common Area Blocks ("CA"):** The Developer and/or Property Owners Association reserve(s) the right to sell, assign and convey all or a portion of Common Area blocks in order to allow ingress and egress from adjoining property not otherwise part of the Oldfield Subdivision, to the public streets and roadways.

**Section 6.12. Common Area Block K:** This Common Area, Block K, shall be utilized for a pedestrian and non-motorized bike path and shall further be utilized to provide emergency access to fire, ambulance and police vehicles and equipment in the event access is blocked or restricted to Lots from the public streets running in and through Oldfield Subdivision. The Property Owners Association shall maintain the gates to allow emergency access and shall maintain the asphalt path and keep the same free and clear of snow.

**Section 6.13. Grinder Pumps:** Grinder pumps shall be mandatory for all single family homes within Oldfield Subdivision as sanitary sewer will be provided by a force main and served by the Town of Zionsville. Each owner shall install a grinder pump with the specifications and requirements set out by the Committee and further contained in the "Development Control Committee Guidelines for Architectural Approval for Oldfield."

Each owner shall be responsible for the installation and maintenance of the grinder pumps and lateral connections serving their residence. The force main will be dedicated to the Town of Zionsville and maintained by them as part of the town's sanitary sewer system.

**NOTICE: These grinder pumps will be maintained by each Owner and will not be installed, maintained or replaced by the Town of Zionsville.**

## **ARTICLE VII**

### **Easements**

**Section 7.01. Easements:** The strips of ground shown on the Plat and designated Drainage and Utility Easements ("RDE" or "UE") either separately or together, are hereby created for the use (including required ingress and egress necessary as a part thereof) of public utility companies, governmental agencies, police, fire, ambulance and other emergency vehicles, and the Owners of the Lots herein as follows:

**"Regulated Drainage Easements" (R. D.E.) and "Land Access Easements" (L.A.E.)** are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of this and adjoining ground and/or the public drainage system. This includes the maintenance and access to wet retention ponds. No structures, including fences, shall be built on a Drainage Easement which obstructs flow from the area being served, nor shall any changes be made in the finished grade elevations of any Lot, whether in connection with the construction of improvements thereon or otherwise, so as to modify, alter or change the location or depth of any drainage swales, ditches or creeks located within any such Drainage Easement without the approval of all Federal, State, County or Municipal authorities from whom approvals are required by law, or which would in any way prohibit, impede, restrict or alter the natural flow of surface water drainage.

**"Landscape Easements" (L.S.E.) and Landscape Maintenance Easements" (L.M.E.)** are created to provide for areas for the use of the Developer and the Property Owners Association in landscaping and maintaining said landscaping and lakes/retention ponds (wet retention ponds) to enhance the overall appearance, value and desirability of Oldfield Subdivision. It shall be the responsibility of the Property Owners Association to maintain such easements. Under no circumstances shall the easements be blocked in any manner. No permanent structures shall be constructed within any such easement areas except as may be approved, in writing by Developer or the Committee. No fishing, boating or any other recreational use shall be permitted in the wet retention ponds.

**“Utility Easements” (U.E.)** are created for the use of public and private utility companies, not including transportation companies, for the installation, operation and maintenance of mains, ducts, poles, lines and wires necessary to provide utility service to a Lot or Lots, subject to the condition that following any installation or maintenance, the affected area within such Utility Easement shall be returned to the condition existing prior thereto at the cost and expense of the party responsible for having such work performed.

No structures, including fences, shall be built on a drainage easement (D.E.) or a utility easement (U.E.) which obstructs flow from the area being served, nor shall any changes be made in the finish grade elevations of any Lot, whether in connection with the construction of improvements thereon or otherwise, so as to modify, alter or change the location or depth of any drainage swales, ditches or creeks located within such drainage easement, without the approval of all federal, state, county or municipal authorities from whom approvals are required by law or which would in any way prohibit, impede, restrict or alter the natural flow of surface water drainage.

**“Wetland Preservation Area and Wetlands and Conservation Easement”.**

Areas designated on the Plat, either in common areas or existing on the platted lots, shown as Wetland Preservation Area and/or Wetlands and Conservation Easement shall be maintained by the Property Owners Association and/or Lot Owners. No buildings, including temporary or accessory structures, shall be built or placed in these areas. Soils in these areas may not be disturbed, nor shall any vegetation be removed or disturbed, except for the removal of any trees, limbs or branches which are decayed and present a safety hazard for Lot Owners or others who may have access to common areas.

The Owners shall take title to the Lots subject to the foregoing easement rights in, along and through the strips of ground properly designated as hereinabove set forth on the recorded survey of the Lots for the purposes herein stated.

**Section 7.02. The Oldfield Legal Drain:** All Lots within Oldfield Subdivision are included in The Oldfield Legal Drain. This legal drain has been established by the Boone County Drainage Board and the Boone County Surveyor to provide a method for future maintenance of the retention pond, storm sewers and the subsurface tile drains located in Oldfield Subdivision. Easements have been provided on certain Lots as shown on the Plats in order that contractors employed by the Boone County Surveyor may gain access across Lots in Oldfield Subdivision to maintain said drainage improvements. Each Lot will be assessed a yearly drainage fee not to exceed \$100.00 per lot. This fee is billed by the Boone County Treasurer and is payable at the

time of property taxes in May and November. Failure to pay said assessment could result in a property being involved in a Tax Sale for failure to pay delinquent taxes.

## ARTICLE VIII

### General

**Section 8.01. Waiver of Damages:** Neither the Developer, the Committee, or their nominees, representatives, successors, assigns or designees, shall be liable for any claim for damages whatsoever arising out of or by reason of any acts taken (or not taken) or things done or performed (or not done or performed) pursuant to any authorities reserved, granted or delegated pursuant to this Declaration.

**Section 8.02. Enforcement:** The right to enforce the restrictions contained in this Declaration and all covenants and restrictions contained herein including, but not limited to, the right of injunctive relief, or the right to seek the removal by due process of law of structures erected or maintained in violation of this Declaration, is hereby given and reserved to Developer, the Committee, the Owners from time to time of Lots and all parties claiming under them all of whom shall have the right, individually, jointly or severally, to pursue any and all remedies, in law and equity available under applicable Indiana law, without being required to show actual damage of any kind whatsoever, and shall be entitled to recover, in addition to appropriate monetary damages, if any, reasonable attorneys' fees and other legal costs and expenses incurred as a result thereof.

**Section 8.03. Severability:** The provisions of this Declaration shall be severable and no provision shall be affected by the invalidity of any other provision to the extent that such invalidity does not also render such other provision invalid. In the event of the invalidity of any provision, this Declaration shall be interpreted and enforced as if all invalid provisions were not contained herein.

**Section 8.04. Non-Liability of Developer:** Developer shall not have any liability to an Owner or to any person or entity with respect to drainage on, over, under or through a Lot. Upon the improvement and development of a Lot, the proper handling of storm and surface water drainage shall be the responsibility of the Owner of such Lot, and each Owner by the acceptance of a deed to a Lot, shall be deemed to and does thereby **RELEASE AND FOREVER DISCHARGE** Developer from, and shall **INDEMNIFY AND HOLD HARMLESS** Developer against, any and all liability arising out of or in connection with the handling, discharge, transmission, accumulation or control of storm or surface water drainage to, from, over, under or through the Lot described in such deed.

**Section 8.05. Public Liability and Property Damage Insurance:** Each Owner shall obtain and pay for such public liability and property damage insurance as may be desired to provide protection against loss, cost and expense by reason of injury to or the death of persons or damage to or the destruction of property occurring on or about each such Owner's Lot.

**Section 8.06. Binding Effect:** This Declaration, and the covenants, conditions and restrictions herein contained shall be binding upon Developer, the Committee, each Owner and any person, firm, corporation or other legal entity now or hereafter claiming an interest in any Lot and their or its respective successors or assigns.

**Section 8.07. Duration:** This Declaration and the restrictions imposed hereby shall run with the Real Estate and shall be binding on all owners and all persons claiming under them for an initial period of twenty-five (25) years from the date of recordation, and shall automatically extend for successive periods of ten (10) years each, unless prior to the expiration of the initial period of any ten (10) year period they are amended or changed.

**Section 8.08. Waiver of Remonstrance to Annexation:** All Owners hereby waive remonstrance and consent to the annexation of the real estate, including their individual lots, by the Town of Zionsville.

**Section 8.09. Amendments to Declaration:** This Declaration may be amended or changed at any time with approval in writing by the Owners of at least sixty percent (60%) of all Lots herein and shall not become binding and effective until the date of recordation in the Office of the Recorder of Boone County, Indiana. Notwithstanding this provision, Sections 7.01 and 7.02 of this Declaration may not be amended without the approval of the Boone County Area Plan Commission and/or the Boone County Board of Zoning Appeals after a public hearing in accordance with their Rules and Regulations.

**Section 8.10. Waiver of Remonstrance:** Property consisting of 39.766 acres +/- adjoining Oldfield Subdivision to the East ("Adjoining Property") has been sold, in its entirety, to an owner not otherwise affiliated with Developer. The new owner of said Adjoining Property may plat the 39.766 acres +/- or may not. The Owners of property in Oldfield Subdivision, including the Developer and the Property Owners Association, hereby waive remonstrance or objection and consent to the platting of the adjoining Property or a replat, including primary and/or secondary plat approval, with dissimilar covenants, conditions and restrictions, of the Adjoining Property so long as the plat or replat consists of not more than nine (9) single family residential lots.

**Section 8.11. Lot 12:** The existing structures and improvements contained on Lot 12 ("Lot 12 Improvements") shall not be subject to the covenants, conditions and restrictions contained in this Declaration for improving and developing Lots. Furthermore, the additional proposed improvements for Lot 12 (the "Proposed Improvements") shall not be subject to the covenants, conditions and restrictions contained in this Declaration for improving and developing

Lots; provided, that the Proposed Improvements are constructed and built in substantial compliance with the plans and specifications provided to and approved by the Declarant prior to the date hereof. In the event that the Lot 12 Improvements or Proposed Improvements (after completion in accordance with this Section) are partially or totally damaged or destroyed, the Owner(s) of Lot 12 shall be entitled to rebuild and improve Lot 12 to substantially the same condition that existed prior to the damage or destruction regardless of any violation under this Declaration including, but not limited to, having forward facing garage doors, chain link fencing, tennis courts and a carriage house.



Exhibit "A"Legal Description for Oldfield Subdivision

A part of the Southwest Quarter of Section 3 and the Southeast Quarter of Section 4, both in Township 17 North, Range 2 East of the Second Principal Meridian in Eagle Township of Boone County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of the Southeast Quarter of Section 4, Township 17 North, Range 2 East of the Second Principal Meridian in Eagle Township, Boone County, Indiana; thence South 88 degrees 25 minutes 59 seconds West measured on an assumed bearing on the South line of said Southeast Quarter a distance of 110.31 feet to the Southeasterly corner of real estate described in the Office of the Recorder of Boone County, Indiana on page 295 of Deed Record 254 as Instrument Number 97-12010, said corner being the PLACE OF BEGINNING of the within described real estate; thence South 88 degrees 25 minutes 59 seconds West on the South line of said Southeast Quarter 764.62 feet; thence North 01 degree 34 minutes 01 second West measured perpendicular with said South line 340.00 feet; thence South 88 degrees 25 minutes 59 seconds West parallel with said South line 215.00 feet; thence South 01 degree 34 minutes 01 second East 340.00 feet to the South line of said Southeast Quarter; thence South 88 degrees 25 minutes 59 seconds West on said South line 404.00 feet to the Southeasterly corner of The Enclave, Section 1, a subdivision in Boone County, Indiana, as per plat thereof recorded as Instrument Number 0113456, on page 46 of Deed Book 12 in the Office of the Recorder of Boone County, Indiana, said corner being 1164.91 feet North 88 degrees 25 minutes 59 seconds East from the Southwest corner of said Southeast Quarter; thence North 00 degrees 25 minutes 27 seconds West on the Easterly line of said Section I of The Enclave and the Northerly prolongation thereof, being the Easterly line of The Enclave, Section II, a subdivision in Boone County, Indiana, as per plat thereof recorded as Instrument Number 0113457, on page 48 of Deed Book 12, in said Recorder's Office a total distance of 2161.24 feet to a point being 22.17 feet North of the Southeast corner of Lot 30 in said Section II of The Enclave; thence North 88 degrees 16 minutes 59 seconds East 837.66 feet to a point on the Westerly line of real estate described on page 153 of Deed Record 205, in said Recorder's Office; thence South 00 degrees 34 minutes 15 seconds East on the Westerly line of said real estate 392.57 feet to the Southwest corner of said real estate; thence North 88 degrees 23 minutes 03 seconds East 233.00 feet; thence North 89 degrees 03 minutes 48 seconds East 1419.84 feet; thence North 89 degrees 22 minutes 03 seconds East 327.11 feet to a point on the Westerly line of Thornhill, Section Three B, a subdivision in Boone County, Indiana, as per plat thereof recorded on page 46 of Plat Book 7 in said Recorder's Office, said point being 41.28 feet South of the Northwest corner of Lot 74 of said Thornhill, Section Three B; thence South 01 degree 00 minutes 26 seconds East along said Westerly line 434.40 feet to the Southwest corner of said Thornhill, Section Three

B; thence North 88 degrees 34 minutes 31 seconds East on the Southerly line of said Thornhill, Section Three B, a distance of 0.19 feet to the East line of the West Half of the Southwest Quarter of Section 3, Township 17 North, Range 2 East; thence South 01 degree 01 minute 57 seconds East on said East line 435.10 feet to the Northerly line of real estate described in said Recorder's Office in Instrument No. 97-12011, said point being 2.75 feet, South 88 degrees 54 minutes 54 seconds West of the Northeasterly corner of said real estate, said Northeasterly corner being 881.47 feet North 00 degrees 51 minutes 12 seconds West of the Southeast corner of the West Half of said Southwest Quarter; thence South 88 degrees 54 minutes 54 seconds West on the Northerly line of said real estate 690.65 feet to the Northwesterly corner of said real estate; thence South 00 degrees 28 minutes 06 seconds East on the Westerly line of said real estate 886.80 feet to a point on the South line of said Southwest Quarter; thence South 88 degrees 28 minutes 54 seconds West on said South line 44.00 feet; thence North 00 degrees 28 minutes 06 seconds West 886.80 feet; thence North 77 degrees 34 minutes 02 seconds West 5.83 feet to the Northerly line of the aforesaid real estate described in said Recorder's Office in Instrument Number 97-12010 on page 295 of Deed Record 254; thence South 88 degrees 32 minutes 55 seconds West on the Northerly line of said real estate 710.39 feet to the Northwesterly corner of said real estate; thence South 00 degrees 50 minutes 05 seconds East on the Westerly line of said real estate 889.04 feet to the PLACE OF BEGINNING.

Containing 91.777 Acres, more or less.

**Exhibit "B"****OLDFIELD SUBDIVISION****GUIDELINE FOR ARCHITECTURAL APPROVAL FOR OLDFIELD SUBDIVISION**

September \_\_, 2007

Welcome to Oldfield Subdivision! For the benefit of all Lot owners, the Oldfield Subdivision Declaration of Covenants, Conditions and Restrictions (the "Declaration") establishes an Oldfield Subdivision Development Control Committee ("Committee") to review Lot Development Plans (as defined in the Declaration) for improvements and landscaping constructed and installed in Oldfield Subdivision. To assist you in obtaining Committee approval for construction and installation, this document summarizes and supplements important information from the Declaration.

**BUILDING PLAN APPROVAL.** Before a building permit can be obtained, each Owner must submit at least three (3) complete sets of the materials described on the attached Oldfield Construction Plan Submittal Form. The site plan must be completed and stamped by a Registered Professional Engineer. **FAXED COPIES OF SITE PLANS ARE NOT ACCEPTABLE.** Building plans will be considered incomplete if not accompanied by a site plan, and final approval will be withheld. Please see the attached Oldfield Construction Plan Submittal Form for a complete list of items that your builder and engineer must include. Upon request, the Committee will review preliminary house plans, and provide comments. The Committee will pay particular attention to design balance, symmetry, and detailing.

**EXTERIOR COLORS AND MATERIALS.** The preferred materials for the construction of a single family dwelling, garage or accessory building are masonry and stone. Exterior colors and materials must be approved before masonry work, painting and/or roofing begin. Chimneys must be finished with masonry or stone. Natural materials are encouraged; aluminum siding, vinyl, masonite and T-11 are prohibited.

**BUILDING STANDARDS:**

Per zoning standards and/or the Declaration, minimum standards are as follows:

Minimum front yard:	As per plat
Minimum side yard:	10 feet
Minimum Side yard aggregate:	30 feet
Minimum rear yard:	20 feet
Minimum size of one story residence in finished square feet:	4,000
Minimum size of a two story residence in finished square feet:	4,500
main floor minimum:	3,000
Driveway width at property line:	20' maximum 12' minimum

**LANDSCAPING PLANS.** The Committee may authorize an Owner to defer submission of a landscaping plan to a date subsequent to the date the Committee acts on the site plan and building plans. A LANDSCAPING PLAN PREPARED BY A QUALIFIED LANDSCAPE ARCHITECT OR DESIGNER MUST BE SUBMITTED FOR APPROVAL TO THE COMMITTEE NOT LATER THAN 60 DAYS SUBSEQUENT TO COMMENCEMENT OF CONSTRUCTION OF THE HOME. THE COMMITTEE HAS THE RIGHT TO SPECIFY A MINIMUM EXPENDITURE BY THE OWNER FOR LANDSCAPING, TO REQUIRE MINIMUM PLANTINGS ON THE LOT AND TO SPECIFY PARTICULAR TYPES OF PLANTINGS WHICH MUST BE INSTALLED AND THE LOCATION THEREOF. All landscaping specified on the landscaping plan approved by the Committee must be installed on the Lot strictly in accordance with such approved plan within sixty (60) days, weather permitting, following substantial completion of the home if such completion occurs between April 1 and October 15; otherwise prior to May 1. Landscaping plans must include shade trees and flowering trees. **Trees must be at least a two (2) inch caliper.** At least ten (10) days are required to review landscaping plans. Sizes and names of all plant material must be specified.

**DRIVEWAYS.** All driveways must conform to the permit regulations of Boone County or the Town of Zionsville, as the case may be. Recreational vehicles, boats, mobile homes and inoperable vehicles are not permitted to be parked or stored on any Lot or driveway in open public view. Driveway requirements include the following:

1. Prior to development or improvement of the Lot, a builder or Owner shall be required to excavate and install a temporary stone driveway on the Lot. Such driveway shall consist of all #53 stone or a combination of fabric, #2 stone and #53 stone. The purpose of the temporary entrance is to prevent the tracking of mud and debris onto the subdivision streets.
2. Upon completion of construction, the temporary stone driveway shall be surfaced with a dust-free surface of asphalt, concrete, brick or aggregate mix to a depth of at least four (4) inches. At no time shall the driveway material be placed within the flow line of the curb.
3. The width of the finished driveway shall be no less than twelve feet (12') at the property line abutting the street.
4. Under no circumstances shall a driveway's entrance, including stone, concrete, asphalt or other material, be constructed or placed behind or over a street inlet casting or manhole.
5. Driveways should generally be located no closer than two feet (2') to the line of any adjoining Lot. For turnaround areas, it is suggested that a curb or bumper be installed to prevent tires from damaging the lawn of adjoining Lots, as well as to direct storm water drainage from the adjoining Lot. Turnaround areas not built at grade must be located an additional one foot (1') away from the Lot line for each vertical foot (1') above or below grade; i.e., a one to one slope. Driveways may not be located over installed sanitary or storm sewer lines.
6. Driveway lights shall be located no closer than (10) feet from the back of the street curb and five (5) feet from the edge of the driveway pavement.

LOT MAINTENANCE DURING CONSTRUCTION. Lots in the subdivision may contain compacted fill materials. This soil, although it has been assumed to be properly compacted, may not contain similar engineering properties of undisturbed soils for the purpose of foundation construction. It is suggested that an Owner consult the construction plans or the development plans on any Lot in Oldfield Subdivision prior to commencement of construction.

During any construction or installation:

1. The builder or Owner shall provide adequate physical barriers such as erosion silt fencing, straw bales, etc. along the entire street frontage of a Lot to prevent mud and debris from washing from the Lot onto the subdivision streets and eventually into the storm sewer system. Similar methods shall be used to prevent silt from entering and clogging drainage ways. The root systems of existing trees shall be protected during construction by the use of wood snow fence or plastic construction fence. If these measures are not in place ten (10) days after the start of construction on the Lot, Declarant or the Oldfield Subdivision Property Owners' Association, Inc. (the "Property Owners Association") has the right to install required erosion measures and place a lien on the Lot to recover the amount of funds expended to perform the work. Temporary seeding of all disturbed areas of a Lot must be done to preserve topsoil prior to final grading and seeding.

2. When the basement and/or foundation of the residence is constructed, stone shall be installed over the path of the driveway as shown on the approved building plans, and shall be level with the curb at the Lot line to avoid curb break-up. In the event of curb break-up, the Owner or contractor performing the work shall repair the curb break-up and reimburse the Property Owners Association for any costs and expenses related thereto.

3. The surface and sub-surface drainage system shall not be altered in any way from the conditions specified in the development plan for Oldfield Subdivision and in the approved building plans for the Lot.

4. Each builder and Owner is responsible for insuring that the Lot is maintained as a clean and orderly construction site. Lots must be kept trash free and mowed. Trash shall not be deposited on other Lots within Oldfield Subdivision. All builders shall place a trash dumpster on the Lot where the work is being performed. All trash generated on the Lot shall be hauled away from the subdivision on a regular (not less than weekly) basis and the construction site shall be kept neat and orderly at all times.

5. Water service cuts shall not undermine the curbs or alter the sub-surface drainage system. Any excavated area which adjoins the curb will be backfilled with #53 stone to within 10 inches of the top curb.

6. Vehicles shall not be driven across or parked on other Lots. Mud tracked onto the streets must be scraped off daily. Whenever possible, vehicles should be parked on one side of the street to insure that traffic can flow through the area smoothly.

FENCING. All fencing placed in Oldfield Subdivision must be approved by the Committee. Masonry walls may be permitted, integrated with or without wrought iron fencing, when deemed appropriate by the Committee. Absolutely no chain link (except to surround tennis courts as provided in the Declaration), stockade, shadow box or split rail fencing is permitted. For

approval please include:

- site plan
- dimensions and placement of structure
- photograph or brochure picture
- color

**ACCESSORY STRUCTURES.** The Committee serves to protect the value of all homes by providing uncompromising standards and requirements. Any and all improvements made to a Lot (including, but not limited to, pools, swing sets, decks, gazebos, satellite dishes, basketball goals that would be visible from a public right-of-way adjoining the Lot) must receive prior approval by the Committee.

Concrete pads for basketball goals must not be placed within easements located on any Lot. Absolutely **no** mini barns, satellite dishes greater than eighteen (18) inches in diameter, above ground pools, or storage sheds will be permitted or approved. For approval please include:

- site plan
- dimensions and placement of structure
- photograph or brochure picture
- color

**YARD LIGHTS, MAILBOXES.** Each Owner or builder shall install and maintain in operable condition either (i) a pole light on the Lot at a location, having a height and of a type, style and manufacture approved by the Committee prior to the installation thereof or (ii) two (2) carriage lights on the front of the home of a type, style and manufacture approved by the Committee prior to the installation thereof. Each such light fixture shall also have a bulb of a wattage approved by Committee to insure uniform illumination on each Lot and shall be equipped with a photo electric cell or similar device to insure automatic illumination from dusk to dawn each day. All mailboxes in Oldfield Subdivision must be of uniform size, type and color. Approved mailboxes for Oldfield Subdivision can be ordered from a company selected by the Committee.

**OTHER CONCERNS.** Any other concerns regarding the design review process or the policies and procedures of the Committee should be directed to the Property Owners Association. The Owner and the builder are responsible for ensuring that these standards are met. The Owner will be billed if the Property Owners Association takes any corrective action.

**SUBMITTING PLANS.** Plans should be submitted to the Committee, c/o \_\_\_\_\_, \_\_\_\_\_, IN \_\_\_\_\_. Please allow five to ten (5-10) days for review and comment. Please read the conditions for approval written on your plans; you will be held responsible for making any requested changes. If the Committee fails to approve, modify or disapprove in writing an application for approval of a Lot Development Plan within thirty (30) days after receipt of such plan and such further information as the Committee may require, then approval will be deemed denied.

**OLDFIELD CONSTRUCTION PLAN SUBMITTAL FORM  
FOR  
OLDFIELD SUBDIVISION**

**INSTRUCTIONS:**

The applicant for approval of any construction upon or improvement of a Lot (that is, the owner or owners of such Lot) must complete this Checklist by supplying all information required under Items 1, 2, 3 and 4 hereof. The applicant must then submit this checklist in **triplicate** together with three (3) copies of all plans and drawings referred to herein, to the Oldfield Subdivision Development Control Committee (the "Committee") for its actions.

**1. General Information**

- (A) Lot No.: \_\_\_\_\_
- (B) Complete name(s) of owner(s) of record: \_\_\_\_\_  
\_\_\_\_\_
- (C) Name, Address and Telephone Number of Builder,  
Engineer and/or Architect: \_\_\_\_\_  
\_\_\_\_\_
- (D) Size of House to be constructed on Lot:
  - (1) Number of Stories: \_\_\_\_\_
  - (2) (a) 1st Floor Square Footage: \_\_\_\_\_  
Square Feet: \_\_\_\_\_
  - (b) 2nd Floor Square Footage: \_\_\_\_\_  
Square Feet: \_\_\_\_\_
  - (c) Other (Specify): \_\_\_\_\_  
Square Feet: \_\_\_\_\_
  - (d) Total Square Footage: \_\_\_\_\_  
Square Feet: \_\_\_\_\_

**2. Site Plan:**

- (A) Prepared by: \_\_\_\_\_
- (B) Latest revision date: \_\_\_\_\_
- (C) Required information:
  - (1) Topography. \_\_\_\_\_
  - (2) Trees Shown. \_\_\_\_\_
  - (3) House Location. \_\_\_\_\_
  - (4) Utilities. \_\_\_\_\_
  - (5) Storm Drainage. \_\_\_\_\_
  - (6) Landscaping. \_\_\_\_\_
  - (7) Driveway Plan. \_\_\_\_\_

- (8) Fences. \_\_\_\_\_
- (9) Pool Design and Location. \_\_\_\_\_
- (10) Tennis Court Design and Location (including lighting). \_\_\_\_\_
- (11) Miscellaneous (Other). \_\_\_\_\_

3. **Construction (Working) Drawings:**

	(A) Type of Plan/ Drawing	(B) Prepared By:	(C) Latest Revision Date:
1.	Foundation Plan	_____	_____
2.	Floor Plan	_____	_____
3.	Cross Sections	_____	_____
4.	Exterior Elevations	_____	_____
5.	Specifications	_____	_____
6.	Roof Plan	_____	_____
7.	Drainage Plan	_____	_____
8.	Materials Shown	_____	_____
9.	Exterior Trim Details	_____	_____
10.	Pool Design and Location, including equipment and drainage plans	_____	_____
11.	Tennis Court Design and Location (including lighting and fencing)	_____	_____
12.	Miscellaneous (Other)	_____	_____

4. **Owner's Request For Approval:** The undersigned, owner or owners of a Lot in Oldfield Subdivision (collectively, "Owner"), as an inducement to the Oldfield Subdivision Property Owners' Association, Inc. and the Committee to consider the approvals herein requested, hereby states and certifies (A) that he/she/it is the sole owner of said Lot, (B) that the information set forth in Items 1, 2, and 3 above is true and correct, and (C) that the plans and drawings identified above and submitted herewith to the Committee are the only plans and drawings being considered for approval by the Committee. The undersigned represents, warrants and agrees that all construction upon and improvement of the subject Lot will be performed in accordance with such plans and drawings as finally approved by the Committee. The undersigned acknowledges and understands that any changes in plans and drawings, after the approval of those submitted to the Committee, must be re-submitted to the Committee for its consideration and ultimate approval. The undersigned further agrees to abide by all of the terms, provisions and requirements of the Declaration of Covenants, Conditions and Restrictions of Oldfield Subdivision (the "Declaration"), and the approval requirement of the Committee. The undersigned hereby requests approval by the Committee of the plans and drawings identified above and submitted herewith.

Dated: \_\_\_\_\_, 20\_\_\_\_\_.

OWNER(S):

\_\_\_\_\_  
\_\_\_\_\_

WITNESS: \_\_\_\_\_

(Note: All owners of record must sign the Request For Approval.)

*For more information, please contact:*

Oldfield Subdivision Property Owners' Association, Inc.  
c/o Oldfield Subdivision, LLC  
Attention: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ACTION BY OLDFIELD SUBDIVISION  
DEVELOPMENT CONTROL COMMITTEE:**

(1) Date this Checklist and all plans and drawings referred to herein were received by the Committee:  
\_\_\_\_\_, 20\_\_\_\_.

(2) Plans and drawings are:

\_\_\_\_\_ (A) Disapproved since they are incomplete in the following respects:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (B) Disapproved for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ (C) Approved subject to the following conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**(Plans must be resubmitted for approval.)**

\_\_\_\_\_ (D) Approved as submitted and the Committee hereby affixes the "Approved" stamp of Oldfield Subdivision Property Owners' Association, Inc. to each page of all plans and drawings submitted to it:

(3) Date of action by the Committee: \_\_\_\_\_, 20\_\_\_\_\_.

(4) The foregoing action by the Committee is valid only when this Checklist is executed by the Committee and all plans and drawings listed herein have been stamped "Approved".

OLDFIELD SUBDIVISION PROPERTY OWNERS'  
ASSOCIATION, INC.

By: \_\_\_\_\_

\_\_\_\_\_  
Printed or Typed

**Exhibit "C"**

**BYLAWS**

**OF**

**OLDFIELD SUBDIVISION PROPERTY OWNERS' ASSOCIATION, INC.**

**ARTICLE I**

**Name and Principal Office**

**Section 1. Name.** The name of the corporation is Oldfield Subdivision Property Owners' Association, Inc.

**Section 2. Registered Office and Agent.** Until and unless changed in accordance with law by the Board, the street address of the Association's registered office in the State of Indiana is 600 East 96<sup>th</sup> Street, Suite 600, Indianapolis, Indiana 46240, and the name of its registered agent at such office is Marc D. Pfleging.

**ARTICLE II**

**Definitions**

**Section 1. "Developer"** shall mean Oldfield Development Company, LLC, its successors and assigns as designated in one or more written recorded instruments to have the rights of Developer under the Declaration, including, without limitation, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Developer.

**Section 2. "Declaration"** shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions for Oldfield Subdivision to be recorded in the office of the Recorder of Boone County, Indiana, as the same may be amended or supplemented from time to time as therein provided, said Declaration being incorporated herein by reference as if set forth at length herein.

**Section 3. "Association"** shall mean and refer to this corporation, which is also referred to as the "Association" in the Declaration and the "Corporation" in the Articles of Incorporation of this Corporation.

**Section 4.** All terms not defined herein shall have the meaning ascribed to them in the Declaration.

**ARTICLE III**

**Membership Transfer and Voting Rights**

**Section 1. Membership, Transfer, and Voting Rights.** Reference is hereby made to Article IV of the Declaration which sets forth terms, provisions and conditions governing and relating to membership in the Association, voting rights of members and transfer of membership, all of which terms, provisions and conditions are incorporated herein by reference.

**Section 2. Quorum.** The presence in person or by proxy at any meeting of the members of the Association of persons entitled to vote sixty percent (60%) of the votes of

the membership shall constitute a quorum for any action except as otherwise provided in or required by the Articles of Incorporation of the Association, the Declaration, these Bylaws, or statute. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented.

**Section 3. Proxies.** Votes may be cast in person or by proxy. Proxies must be filed with the secretary of the Association before the appointed time of each meeting of the members of the Association. Cumulative voting shall not be permitted.

**Section 4. Majority Required.** A majority of the votes of members present (in person or by proxy) at a meeting at which a quorum is present shall be sufficient for the transaction of all business of the Association except on matters where a greater vote is required by the Declaration, the Articles of Incorporation of the Association, these Bylaws or by statute.

**Section 5. Meetings.** Meetings of the members of the Association shall be in accordance with the following provisions:

A. **Place.** Meetings of the members shall be held at such place in Boone County, Hamilton County or Marion County, Indiana, as may be designated by the Board.

B. **Annual Meetings.** The first annual meeting of the members shall be held during the first fiscal year of the Association, the exact date to be decided by the Board. At such first annual meeting of the members, the members may designate a regular day or date for successive annual meetings. If the members fail to designate such a regular day or date, the Board may continue to designate the day or date of the next annual meeting until such a designation is made by the members. If any designated day or date falls upon a legal holiday, the actual date of the meeting shall be the next business day succeeding such designated day or date.

C. **Special Meetings.** Special meetings of the members may be called by the president of the Association and shall be called by resolution of the Board or upon a written petition signed by members of the Association who are entitled to vote fifty percent (50%) of all of the votes of the membership. Notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

D. **Notice of Meetings.** It shall be the duty of the secretary of the Association to serve a notice of each annual or special meeting, stating the purposes thereof, as well as the time and place where it is to be held, upon each member of record, not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The mailing of a notice to each member at the address shown for such member in the Association's records shall be deemed notice served.

E. **Waiver of Notice.** Before or at any annual or special meeting, any member entitled to notice may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent of the giving of such notice. Attendance by a member at any annual or special meeting shall be deemed a waiver of notice required by Section 5 of this Article.

F. **Order of Business.** The order of business at all meetings of the members shall, to the extent applicable, be as follows:

- (1) Roll call.

- (2) Proof of notice of meeting or waiver of notice.
- (3) Reading of minutes of preceding meeting.
- (4) Reports of officers.
- (5) Reports of committees.
- (6) Election of directors.
- (7) Unfinished business.
- (8) New business.

**ARTICLE IV**  
**Nomination and Election of Directors**

**Section 1. Nomination.** Prior to the Applicable Date, the Board shall be appointed by the Developer in accordance with Articles of Incorporation of the Association and with the provisions of these Bylaws. Beginning with the first annual meeting of the members of the Association after the Applicable Date, nomination for election to the Board shall be made by a nominating committee (the "**Nominating Committee**"). Nominations may also be made from the floor at the annual meeting of the members of the Association, beginning with the first annual meeting of the members of the Association held after the Applicable Date. The Nominating Committee shall consist of a chairman, who shall be a member of the Board, and two (2) or more members of the Association. The Nominating Committee shall be appointed by the Initial Board or Interim Board (defined in Section 3 of Article V) as the case may be prior to or at the first annual meeting of the members of the Association after the Applicable Date and, thereafter by the Board at each annual meeting of the members. The members of the Nominating Committee shall serve until the close of the next annual meeting, and the announcement of the appointment of a new Nominating Committee at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. After the Applicable Date, such nominations may be made only from among members of the Association, or persons otherwise eligible to serve on the Board in accordance with the Declaration and the Articles of Incorporation of the Association.

**Section 2. Election.** After the Applicable Date, election to the Board shall be by secret written ballot at the annual meeting of the members of the Association. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

**ARTICLE V**  
**Board of Directors**

**Section 1. Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons. Directors other than those serving on the Initial Board or Interim Board (as defined in Section 3 of this Article V) must be members of the Association or otherwise eligible to serve on the Board of the Association in accordance with the Declaration and the Articles of Incorporation.

**Section 2. Additional Qualifications.** Where an Owner consists of more than one person, or is a partnership, corporation, trust or other legal entity, then one of the persons

constituting the multiple Owner or a partner, officer or trustee, as the case may be, of the partnership, corporation, trust or other entity Owner shall be eligible to serve on the Board, except that no Lot may be represented on the Board by more than one person at a time.

**Section 3. Initial or Interim Boards.** The initial Board named in the Articles of Incorporation of the Association (the "Initial Board") shall maintain, manage and administer the affairs and any property of the Association until the first to occur of (i) the appointment of an interim Board (the "Interim Board") by the Initial Board, or (ii) the first annual meeting of the members of the Association after the Applicable Date. Any Interim Board appointed by the Initial Board, which appointment shall be at the discretion of the Initial Board, shall maintain, manage, and administer the affairs and any property of the Association until the first annual meeting of the members of the Association after the Applicable Date.

**Section 4. Term of Office Generally.** At such first annual meeting of the members of the Association after the Applicable Date, the members shall elect one-third (1/3) of the total number of directors to be elected to a term of one (1) year, one-third (1/3) of such total to a term of two (2) years, and one-third (1/3) of such total to a term of three (3) years; and at each annual meeting thereafter the members shall elect directors for a term of three (3) years to fill the vacancies created by expiring terms. A director may serve any number of consecutive terms.

**Section 5. Powers.** The Board shall have such powers as are reasonable and necessary for the administration of the affairs of the Association and to accomplish the performance of their duties, which powers include, but are not limited to, the power:

- A. To adopt and publish reasonable rules and regulations governing the management and administration of the Association, and to establish penalties for the infraction thereof;
- B. To suspend the voting rights of a member, but not rights of access and easements necessary for the use of his Lot, during any period in which such member shall be in default for a period of thirty (30) days in the performance of any term of the Declaration or these Bylaws. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days, for infraction of published rules and regulations;
- C. To exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation of the Association, the Declaration or statute;
- D. To declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board; and
- E. To do and take all such action as is or may be necessary, desirable or appropriate to perform the duties, obligations and responsibilities of the Board as required by the Declaration, other provisions of these Bylaws, the Articles of Incorporation of the Association, or statute.

**Section 6. Duties.** The Board shall have the following duties:

- A. To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by members holding fifty percent (50%) of the total votes of the membership entitled to vote; and

B. To supervise all officers of the Association.

Section 7. Vacancies. Any vacancy in the Board (including the Initial Board and Interim Board) shall be filled by vote of the majority of remaining directors, even though they may constitute less than a quorum. In the event such remaining directors cannot reach a majority within any period of time deemed reasonable by the members, that person so designated by a majority of the votes cast at any meeting of the members shall fill such vacancy. Each person so elected shall be a director for the unexpired term of his predecessor, or until his successor is elected.

Section 8. Compensation. No director shall receive compensation for any service he may render to the Association as such director.

Section 9. Removal of Directors. With the exception of directors sitting on the Initial Board or Interim Board, who may be removed only by Developer, any director may be removed with or without cause by a majority vote of the members of the Association upon the affirmative vote of a majority of the votes cast at any meeting of the members.

Section 10. Regular Meetings. Regular meetings of the Board shall be held at such regular intervals, without notice, at such place and hour as may be determined from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 11. Special Meetings. Special meetings of the Board may be called by the president on three (3) days' notice to each director, given personally, by mail, telephone or facsimile, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the president or secretary in like manner and on like notice on the written request of at least two-thirds (2/3) of the directors.

Section 12. Waiver of Notice. Before or at any meeting of the Board, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent of the giving of such notice. Attendance by a director at any meeting of the Board shall be deemed a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the board, no notice shall be required and any business may be transacted at such meeting.

Section 13. Quorum. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors present at a meeting at which quorum is present shall be the acts of the Board except as otherwise provided in or required by the Declaration, Articles of Incorporation of the Association, these Bylaws or statute.

Section 14. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Such approval must describe the action, be signed by each director, and be included in the minutes or filed with the corporate records reflecting the action taken. Any action so approved shall have the same effect as though taken at a meeting of the directors.

**ARTICLE VI**  
**Officers and their Duties**

**Section 1. Enumeration of Offices.** The officers of the Association shall be a president, a vice president, a secretary and a treasurer, all of whom shall be members of the Board, and such other officers as the Board may from time to time by resolution create.

**Section 2. Election of Officers.** The election of officers shall take place at the first meeting of the Board and thereafter at each annual meeting of the members of the Association.

**Section 3. Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year and until his successor is elected and qualified, unless he shall sooner resign, be removed or otherwise disqualified to serve.

**Section 4. Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 5. Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7. Multiple Offices.** The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8. Duties.** The duties of the officers are as follows:

A. **President.** The president shall preside at all meetings of the Board. He shall see that orders and resolutions of the Board are carried out. He shall have the power to appoint committees from among the members of the Association from time to time as he may in his discretion deem appropriate to assist in conducting the affairs of the Association. The president shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of the State of Indiana.

B. **Vice President.** The vice president shall act in the place and stead of the president in the event of his absence or inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board or as are delegated to him by the president.

C. **Secretary.** The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association (if any is adopted) and affix it on all papers requiring said seal; authenticate records of the Association as necessary; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association, together with their addresses, and shall perform such other duties as required by the Board.

D. Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by resolution of the Board; sign all checks and promissory notes of the Association; keep proper books of account; and prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE VII  
Committees

The Board shall appoint the Nominating Committee referred to in Article IV of these Bylaws. In addition, the Board or the president may appoint various other committees to carry out the purposes of the Association. Except as otherwise expressly provided in Article IV of these Bylaws with respect to the Nominating Committee or by statute, members of such committees may, but need not, be members of the Board.

ARTICLE VIII  
Books of Account and Fiscal Year

Section 1. Books of Account. The Association shall keep detailed books of account showing all expenditures and receipts of administration which shall specify any expenses incurred by or on behalf of the Association and the members. Such accounts, books, records, financial statements and other papers of the Association shall be open for inspection by the members and other persons having an interest in any Lot, including any Owner, any Mortgagee, and any holder, insurer or guarantor of a Mortgage, during reasonable business hours or under other reasonable circumstances. Any holder, insurer or guarantor of a Mortgage shall be entitled upon written request to receive a financial statement for the immediately preceding fiscal year and within a reasonable time of such request. Current copies of the Declaration, the Articles of Incorporation, and the Bylaws of the Association, and other rules concerning the Real Estate, shall be available for inspection by any Owner and Mortgagee, and to holders, insurers or guarantors of any Mortgage, at the principal office of the Association during normal business hours or under other reasonable circumstances, where copies of the same may be purchased at reasonable costs.

Section 2. Fiscal Year. The fiscal year of the Association shall commence January 1 and end the following December 31 each year.

ARTICLE IX  
Contracts, Loans, Checks

Section 1. Authorization. The Board may authorize any officer or officers or agent or agents of the Association to enter into any contract, to execute any instrument, or to take out any loan on its behalf. Such authorization may be general or confined to specific instances. Except as provided in these Bylaws, no officer, agent, or employee shall have any power to bind the Association or to render it liable for any purpose or amount unless so authorized by the Board.

Section 2. Checks. All checks, drafts, or other orders for payment of money by the Association shall be signed by the president, secretary, treasurer, or such other person as the Board may from time to time designate by resolution.

ARTICLE X  
Maintenance Expenses

If provided in the Declaration, specified members may be obligated to fulfill certain maintenance obligations. Failure to comply with those obligations outlined in the Declaration may result in the pursuit of any remedies outlined therein.

ARTICLE XI  
Assessments

As more fully addressed in the Declaration, each Owner is obligated to pay to the Association initial and/or annual and special assessments which are secured by liens against its respective Lot. Any assessment which shall not have been paid on or before the due date therefor, shall bear interest equal to twelve percent (12%) *per annum*. The Association may bring an action at law against the Owner personally obligated to pay the same for a monetary judgment and to foreclose the lien against the Lot, and interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such judgment.

ARTICLE XII  
Indemnification

Section 1. Indemnification by the Association. To the extent not inconsistent with applicable law, every person (and the heirs and personal representatives of such person) who is or was a director, officer, employee, or agent of the Association shall be indemnified by the Association against all liability and reasonable expense that may be incurred by him in connection with or resulting from any claim, action, suit, or proceeding (i) if such person is wholly successful with respect thereof or, (ii) if not wholly successful, then if such person is determined as provided in Section 3 of this Article XII to have acted in good faith, in what he reasonably believed to be the best interests of the Association (or, in any case not involving the person's official capacity with the Association, in what he reasonably believed to be not opposed to the best interests of the Association) and, in addition, with respect to any criminal action or proceeding, is determined to have had reasonable cause to believe that the conduct was lawful (or no reasonable cause to believe that the conduct was unlawful). The termination of any claim, action, suit, or proceeding, by judgment, settlement (whether with or without court approval), conviction, or upon a plea of guilty or of *nolo contendere*, or its equivalent, shall not create a presumption that a person did not meet the standards of conduct set forth in this Article XII.

Section 2. Definitions.

A. As used in this Article XII, the terms "**claim, action, suit, or proceeding**" shall include any threatened, pending, or completed claim, action, suit, or proceeding and all appeals thereof (whether brought by or in the right of this Association, any other corporation or otherwise), civil, criminal, administrative, or investigative, whether formal or informal, in which a person (or his heirs or personal representatives) may become involved, as a party or otherwise:

(1) By reason of his being or having been a director, officer, employee, or agent of the Association, or of any corporation where he served as such at the request of the Association, or

(2) By reason of his acting or having acted in any capacity in a corporation, partnership, joint venture, association, trust, or other organization or entity where he served as such at the request of the Association, or

(3) By reason of any action taken or not taken by him in any such capacity, whether or not he continues in such capacity at the time such liability or expense shall have been incurred.

B. As used in this Article XII, the terms "liability" and "expense" shall include, but shall not be limited to, counsel fees and disbursements, and amounts of judgments, fines, or penalties against, and amounts paid in settlement by or on behalf of, a person.

C. As used in this Article XII, the term "wholly successful" shall mean (i) termination of any action, suit, or proceeding against the person in question without any finding of liability or guilt against him or her, (ii) approval by a court, with knowledge of the indemnity herein provided, of a settlement of any action, suit, or proceeding, or (iii) the expiration of a reasonable period of time after the making of any claim or threat of any action, suit, or proceeding without the institution of the same, without any payment or promise made to induce a settlement.

Section 3. Entitlement to Indemnification. Every person claiming indemnification hereunder (other than one who has been wholly successful with respect to any claim, action, suit, or proceeding) shall be entitled to indemnification (i) if special independent legal counsel, which may be regular counsel of the Association or other disinterested person or persons, in either case selected by the Board, whether or not a disinterested quorum exists (such counsel or person or persons being hereinafter called the "referee"), shall deliver to the Association a written finding that such person has met the standards of conduct set forth in the preceding Section 1 of this Article XII, and (ii) if the Board, acting upon such written finding, so determines. The person claiming indemnification shall, if requested, appear before the referee and answer questions which the referee deems relevant and shall be given ample opportunity to present to the referee evidence upon which he relies for indemnification. The Association shall, at the request of the referee, make available facts, opinions or other evidence in any way relevant to the referee's findings that is within the possession or control of the Association.

Section 4. Relationship to Other Rights. The right of indemnification provided in this Article XII shall be in addition to any rights to which any person may otherwise be entitled.

Section 5. Extent of Indemnification. Irrespective of the provisions of this Article XII, the Board may, at any time and from time to time, approve indemnification of directors, officers, employees, agents, or other persons to the fullest extent permitted by applicable law, or, if not permitted, then to any extent not prohibited by such law, whether on account of past or future transactions.

Section 6. Advancement of Expenses. Expenses incurred with respect to any claim, action, suit, or proceeding may be advanced by the Association (by action of the Board, whether or not a disinterested quorum exists) prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amount unless he is entitled to indemnification.

Section 7. Purchase of Insurance. The Board is authorized and empowered to purchase insurance covering the Association's liabilities and obligations under this Article XII and insurance protecting the Association's directors, officers, employees, agents, or other persons.

**ARTICLE XIII**  
**Amendments**

**Section 1. Amendments.** Subject to applicable statute, these Bylaws may be amended, at a regular or special meeting of the members of the Association, by the affirmative vote of a majority of the votes entitled to be cast by the members present in person or by proxy; **provided**, that no amendment of or other change to these Bylaws shall be made prior to the Applicable Date without the consent and approval of Developer, so long as Developer owns any Lot.

**Section 2. Control.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.